100TH CONGRESS
1st Session

SENATE

REPORT
100-111

ACTIVITIES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

AND THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

FOR THE

NINETY-NINTH CONGRESS

JULY 15 (legislative day, JUNE 23), 1987.—Ordered to be printed

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Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Governmental Affairs during the 99th Congress. These activities parallel the broad scope of responsibilities vested in the Committee by the Legislative Reorganization Act of 1946, as amended, rule XXV(k) of the Standing Rules of the Senate, and additional authorizing resolutions.

I. HIGHLIGHTS OF ACTIVITIES

During the 99th Congress, the focus of the Governmental Affairs Committee's activities shifted slightly. With a greater number of Presidential nominations, the Committee focused on executive branch appointments. The business of the Congress as a whole was shaped by new major issues of national concern, such as tax reform and drug abuse. New national priorities influenced the agenda of the Committee, prompting more first-time investigations.

In many areas, the Governmental Affairs Committee broke new ground during the 99th Congress. The number of legislative initiatives, the scope of the measures considered and the beneficial results of these activities were particularly noteworthy. Chairman Roth took satisfaction that many of the measures crafted and guided through the Committee to final passage produced effective, long-lasting changes for the better in the federal government. The most significant accomplishments included completing reform of the federal civil service retirement system, implementing some of the recommendations of the Grace Commission, promoting improved management of federal agency operations, and ongoing nominations.

The Committee made major strides for America's defense, including a comprehensive study on quality control problems in weapons

system manufacturing undertaken by the General Accounting Office at Chairman Roth's request. The Pentagon has already begun reforms patterned after the 1986 GAO study. Other efforts to get more for the military dollar include the Packard Commission, which the President established at Roth's behest. This blue ribbon panel mapped out rigorous reforms for improved accountability and greater competition throughout the Defense Department's acquisition process.

Of all the legislation the Committee passed into law in the 99th Congress, two laws in particular will save American taxpayers millions every year. The Presidential Libraries Maintenance Act requires that future repositories of Presidential papers be substantially funded through private, rather than public, contributions. And, the Limousine Transportation Act strictly limits the number of high-level federal officials who are provided a car and/or driver at taxpayers' expense, sharply curtailing a conspicuous and controversial perquisite.

Under new leadership in the 100th Congress, the Governmental Affairs Committee is expected to continue this legacy with new and challenging projects, as well as continue efforts to promote efficiency and economy in the operation of the federal government.

II. Committee Jurisdiction

The jurisdiction and functions of the Committee on Governmental Affairs were substantially enlarged in the 95th Congress when the Senate approved the Committee System Reorganization Amendments of 1977 (S. Res. 4, 95–1, February 4, 1977) which also changed its name from the Committee on Government Operations to the Committee on Governmental Affairs.

Rule XXV(k) of the Standing Rules of the Senate requires reference to this Committee of all proposed legislation, and other matters, dealing with (1) archives of the United States; (2) budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974; (3) census and collection of statistics, including social and economic statistics; (4) congressional organization, except for matters which amend the rules or orders of the Senate; (5) Federal civil service; (6) Government information; (7) intergovernmental relations; (8) municipal affairs of the District of Columbia, except appropriations therefor; (9) organization and management of U.S. nuclear export policy; (10) organization and reorganization of the executive branch of the Government; (11) Postal Service; and (12) status of officers and employees of the United States including their classification, compensation and benefits.

The Committee is further authorized and directed to (1) receive and examine reports of the Comptroller General of the United States and to submit to the Senate such recommendations as the Committee deems advisable; (2) study the efficiency, economy and effectiveness of all agencies and departments of the Government; (3) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and (4) study the intergovernmental relationships between the United States and States

and municipalities, and between the United States and international organizations of which the United States is a member.

In addition, the Committee has primary oversight and legislative jurisdiction over the General Accounting Office, the Office of Personnel Management, the Office of Management and Budget, the Postal Service and the General Services Administration, and processes all legislation relating to the disposal of federal surplus property, and the negotiated sale thereof.

SIX SUBCOMMITTEES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS DURING THE 99TH CONGRESS AND THEIR MEMBERS

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

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SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

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WARREN B. RUDMAN, New Hampshire
THOMAS F. EAGLETON, Missouri

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

DAVE DURENBERGER, Minnesota, *Chairman*

TED STEVENS, Alaska
THAD COCHRAN, Mississippi
LAWTON CHILES, Florida
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PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

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WILLIAM S. COHEN, Maine
THAD COCHRAN, Mississippi
TED STEVENS, Alaska
SAM NUNN, Georgia
LAWTON CHILES, Florida
JOHN GLENN, Ohio
CARL LEVIN, Michigan
ALBERT GORE, JR., Tennessee

III. BILLS AND RESOLUTIONS REFERRED AND CONSIDERED

During the 99th Congress, 236 bills—198 Senate and 38 House—were referred to the Governmental Affairs Committee for action. Of these, 20 became law, 19 were passed only by the Senate, and nine were reported out of Committee but were not acted on by the Senate before the end of the session.

IV. HEARINGS

For information not included in this section please refer to the Committee's Legislative Calendar.

The Committee and its six Subcommittees held a total of 88 hearings covering 119 days during the 99th Congress, including hearings on pending legislation, investigations of waste and inefficiency in the federal government, and examinations of issues of concern to citizens and taxpayers outside the public sector. Among the areas that the Committee explored were the recommendations of the Grace Commission, federal retirement reform, the Gramm-Rudman-Hollings deficit reduction mechanism, separation of powers issues involving the General Accounting Office, infant mortality, non-smokers' rights, government contracting, testing and pricing of Pentagon weapons and spare parts programs, national nutrition monitoring, federal information policy, and continuing investigations into the de-glamorization of drugs, money laundering, emerging foreign criminal groups, and espionage in the United Nations.

V. Reports, Prints, and Studies

The Committee and its six Subcommittees prepared and issued 45 reports, special prints and studies during the 99th Congress. They included: Emerging Criminal Groups; Child Pornography and Pedophilia; Domestic Money Laundering and Bank Secrecy Act; Use of Offshore Banks to Launder Money; Organization of Federal Executive Departments; Federal Management Reorganization and Cost Control Act of 1986; Anti-Kickback Enforcement Act of 1986; Evolving Roles and Future Issues for the Office of Management and Budget; Federal Government's Security Clearance Programs; Pressure Groups and Lobbying in a Modern Democracy; Rural America in Transition; Rural Governments and the Farm Crisis; Future of the Chesapeake Bay Cleanup Program; Federal Employees' Retirement System Act of 1986; Railroad Retirement Credit Act of 1986; Collection of Statistics on Certain Industries; Nonsmokers' Rights Act of 1985; National Council on Access to Health Care Act; Youth Suicide Prevention Act of 1986; National Commission to Prevent Infant Mortality; National Nutrition Monitoring and Related Research Act of 1986; Defense Transportation Bill Audit Improvement Act of 1986; Information Age Commission Act of 1985; Computer Matching Privacy Protection Act of 1986; General Conference of the Atomic Energy Agency; Nuclear Proliferation Factbook.

VI. Official Communications

During the 99th Congress, the Committee received a total of 1,004 official communications; 48 from the Comptroller General of the United States, and 956 from the President, executive departments and agencies. These communications included reports to advise and inform the Congress, required annual or semi-annual agency budget and activities summaries, and requests for legislative action. In addition, 27 petitions and memorials were referred to the Committee.

VII. Legislative Actions

For information not included in this section, please refer to the Committee's Legislative Calendar.

These are short summaries of significant legislation considered by the Committee which: a) became law; b) were passed by the Senate and/or House; and c) were reported favorably by the Committee.

Measures Enacted Into Law

S. 209: THE FEDERAL DEBT RECOVERY ACT OF 1985

Senator D'Amato introduced S. 209 on January 21, 1985. This legislation authorized Federal agencies to contract for private counsel to provide collection services in cases of debts owed to the Federal Government.

The Government loses millions of dollars each year because it has neither sufficient time nor resources to pursue collection of debts owed through programs such as low-interest student loans or Medicare and Medicaid. S. 209 permitted Federal agencies to seek the services of private counsel—through competitive contracting—to collect these outstanding debts. Agency heads were authorized to refer all claims resulting from agency activities to the private counsel under contract.

S. 209 required the Attorney General to submit an annual report on Department of Justice debt collection activities. The bill also required the Comptroller General to perform an annual audit of the actions taken by the Attorney General and the Justice Department to recover delinquent debts owed the government. The Comptroller General must also assess and report to the Congress on (1) the status of Federal agency efforts to select competitively counsel, (2) retainer fee levels, and (3) the overall results of government collection efforts.

S. 209 was reported on March 7, 1986, and passed the Senate by a vote of 95–1 on March 19, 1986. The House passed the legislation on September 29, 1986, and S. 209 was signed into law on October 28, 1986 (Public Law 99–578).

H.R. 1349: THE PRESIDENTIAL LIBRARIES MAINTENANCE ACT

The 99th Congress was the fourth consecutive Congress in which legislation dealing with former Presidents was introduced. Language identical to H.R. 1349, which was designed to reduce the costs of operating Presidential libraries, was originally included in S. 1047, the Senate Presidential Benefits measure. In the course of the legislative process, the provisions governing Presidential libraries were separated out of the Senate bill to facilitate negotiation in Congress.

This legislation established guidelines for the costruction and operation of all future Presidential libraries. H.R. 1349 required that 20 percent of a library's operating and maintenance costs be raised through an endowment fund prior to construction. The bill also limited the size of future Presidential libraries to 70,000 square feet. Any increase in size over that limit must be funded by an additional endowment.

H.R. 1349 was referred to the Governmental Affairs Committee on June 6, 1985. On March 7, 1986, the bill was reported to the Senate, and subsequently passed with amendments on March 21, 1986, by voice vote. The House agreed to the Senate amendments on May 13, 1986, and the President signed the bill into law on May 27, 1986 (Public Law 99-323).

H.R. 2672: THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

The Federal Employees' Retirement System Act of 1986, which began initially as S. 1527, was introduced on July 30, 1985, by Chairman Roth and Senator Stevens. The bill established a comprehensive federal retirement plan to coordinate with Social Security, ensuring a fully funded and financially sound federal retirement program. Most federal employees hired after January 1, 1984, are automatically covered under the new plan, while employees hired earlier will be given the option of joining the plan during a six-month, window period beginning July 1, 1987. The new system is designed to enhance the portability of retirement assets earned by federal employees, provide options for retirement planning, encourage federal employees to increase their personal savings toward retirement, extend financial protection from disability, and attract high quality workers to the federal government.

In a strong bipartisan effort, S. 1527 was unanimously reported by the Governmental Affairs Committee on October 2, 1985. Upon consideration by the full Senate, H.R. 2672 was reported in lieu of S. 1527 and subsequently passed by a vote of 96-1 on November 7, 1985. The conference report was passed by the Senate under unanimous consent on May 20, 1986, followed by passage in the House on May 22, 1986. The measure was signed into law on June 6, 1986 (Public Law 99-335).

S. 2250: THE ANTI-KICKBACK ENFORCEMENT ACT OF 1986

Introduced by Senator Levin on March 26, 1986, the Anti-Kickback Enforcement Act of 1986 strengthened the already-established prohibition of kickbacks in federal government contracts by subjecting subcontractors to the same requirements.

S. 2250 prohibited the payment or acceptance of kickbacks or attempted kickbacks, and any inclusion of kickback costs in contract expenses—either prime or subcontract—ultimately borne by the federal government. To discourage contractors from taking kickbacks, prime contracts must include clauses requiring the contractor to follow reasonable procedures for preventing kickbacks and to cooperate fully with any federal kickback investigation. In addition, contractors must file annual reports listing all compensation received from subcontractors and report any kickback violations.

The Anti-Kickback Enforcement Act also strenthened the government's ability to deter kickback violations. S. 2250 provided for termination of any prime contract if a subcontractor were to commit a kickback violation, and stipulated that kickback costs may be recovered through administrative means. It also authorized the contracting agency to inspect prime contractor facilities and records. Access to these records was previously afforded only to the General Accounting Office.

S. 2250 was reported on September 9, 1986, and passed by voice vote in the Senate on September 12. The House passed the bill with amendments on October 7, also by voice vote. The Senate concurred in those amendments on October 15, 1986, and the President signed S. 2250 into law on November 7, 1986 (Public Law 99-634).

S. 2630: THE DEPARTMENT OF DEFENSE TRANSPORTATION BILL AUDIT IMPROVEMENT ACT OF 1986

This legislation, introduced by Senator Roth on June 26, 1986, was developed to reduce the burgeoning federal budget deficit and increase the economy and efficiency of government by strengthening audits of Department of Defense transportation bills. S. 2630 established stricter audit requirements, while streamlining the procedures involved in order to eliminate the large audit backlog at the Department of Defense in this area.

S. 2630 was reported by the Committee on September 25, 1986. While pending before the Senate, the language of S. 2630 was substituted in lieu of language in the House measure, H.R. 5420. The Senate passed H.R. 5420 on October 18, 1986. The President signed this measure into law on November 7, 1986 (Public Law 99-627).

H.R. 1534: FEDERAL FLEXITIME SCHEDULES

This legislation was referred to the Governmental Affairs Committee on May 22, 1985. The bill converted the temporary authority to allow federal employees to work on flexible or compressed work schedules to permanent authority. On July 11, 1985, the Committee reported H.R. 1534. The bill passed the Senate on December 11, 1985, and became law on December 23, 1985 (Public Law 99-196).

H.R. 3384/H.R. 4061: FEDERAL EMPLOYEES HEALTH BENEFITS REFUNDS

H.R. 3384, a bill to include federal retirees in the group of individuals eligible for refunds under the Federal Employees Health Benefits Program (FEHBP), was referred to the Governmental Affairs Committee on October 1, 1985. The Committee reported this measure on December 6, 1985, and the Senate passed it on December 19, 1985.

The President vetoed H.R. 3384. A second version of the legislation, H.R. 4061, was introduced and successfully passed. H.R. 4061 was signed into law on February 27, 1986 (Public Law 99-251).

H.R. 2946: THE DISTRICT OF COLUMBIA JURY SYSTEM ACT

The Governmental Affairs Committee received H.R. 2946 on October 29, 1985. The legislation established an independent jury system for the Superior Court of the District of Columbia, thereby ensuring that all litigants before the court would have trial by a jury selected from a fair cross-section of District residents.

H.R. 2946 was reported by the Committee on September 23, 1986. It passed the Senate on October 18, 1986, and was signed by the President on November 14, 1986 (Public Law 99-650).

H.R. 3578: THE DISTRICT OF COLUMBIA PROSECUTORIAL AND JUDICIAL EFFICIENCY ACT OF 1985

This legislation, referred to the Governmental Affairs Committee on October 29, 1985, was an omnibus package with many administrative provisions affecting the District of Columbia courts. It provided permanent authority for Hearing Commissioners in the District of Columbia Courts and modified certain procedures in the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure.

H.R. 3578 was reported by the Committee on September 23, 1986, and passed the Senate on October 10, 1986. The legislation was signed by the President on October 28, 1986 (Public Law 99–573).

H.R. 3614: THE LIMOUSINE TRANSPORTATION ACT

This measure, received in the Senate on March 5, 1986, reduced the number of high-level government officials who are provided a car and/or driver at the taxpayer's expense. It restricted the funds available for the use of government vehicles to transport federal officials and employees from their residences to their places of employment.

H.R. 3614 was called up by the Senate and passed on October 10, 1986. The measure was signed into law on October 27, 1986 (Public Law 99–550).

Measures Which Passed the Senate

S. 1047: FORMER PRESIDENTS FACILITIES AND SERVICES REFORM ACT OF 1986

S. 1047 was introduced by Senators Roth and Chiles on May 1, 1985. Initially, this legislation contained three sections: (1) reductions in office and staff allowances, (2) reductions in Secret Service protection afforded to former Chief Executives, and (3) the establishment of guidelines pertaining to the size and maintenance of all future Presidential libraries. The Presidential libraries section was reported on October 2, 1985, after H.R. 1349 was substituted for the libraries section of the Senate bill. (See H.R. 1349 under this section.)

In S. 1047, the allowance given to former Presidents for staff, office and travel expenses were capped at $300,000 per year for the first five years after the President leaves office, and reduced to $200,000 each year thereafter. Secret Service protection—formerly round-the-clock for the President and his immediate family for the remainder of the President's life—was scaled down to five years after leaving office. The bill allowed the Secretary of the Treasury to make exceptions to this provision in cases where the life of a former Chief Executive is threatened.

The remaining two sections of S. 1047 were ordered reported by the Committee on November 19, 1985. The bill passed the Senate on August 15, 1986, by voice vote.

S. 2004: THE GOVERNMENT MANAGEMENT REPORT ACT OF 1986

On January 22, 1986, Senator Roth, with Senators Eagleton and Chiles as cosponsors, introduced S. 2004, legislation to require the

President to submit to Congress an annual report on efforts planned and undertaken to improve the management of federal executive branch operations. This report would be submitted along with the President's annual budget.

The proposed management report would include an overview of general management improvement goals, both past and current, an examination of major management issues, proposals for legislative or other action to improve management throughout the executive branch, and summaries of each significant management policy adopted or planned for the current year or the fiscal year for which the budget is requested.

Within 90 days after the President submitted this report, the Comptroller General would prepare an analysis of the report, which might or might not include additional recommendations for improving federal executive operations, including modification or repeal of statutory impediments to efficient and effective management.

S. 2004 was reported by the Committee on July 31, 1986. The Senate passed the legislation on October 9, 1986.

S. 2005: THE SMALL AGENCY AUDIT IMPROVEMENT ACT OF 1986

This legislation, designed to strengthen and consolidate internal audit and investigative efforts within federal agencies, was introduced on January 22, 1986, by Chairman Roth and Ranking Minority Member Eagleton.

Specifically, S. 2005 amended the Inspector General Act of 1978 to extend significant statutory protections and requirements to audit and investigative units of approximately 40 federal agencies, boards, commissions and corporations which were not previously subject to the IG Act. Under the legislation, agencies would be required to: (1) consolidate their internal audit and investigative units; (2) insulate the internal audit unit from program operating responsibilities; (3) ensure that the internal audit head reports directly to the agency head or deputy, and; (4) notify Congress of the reasons for removal or involuntary transfer of the internal audit head.

S. 2005 also required the President's Council on Integrity and Efficiency (PCIE) to conduct a study of audit and investigative activities within federal agencies to determine the effectiveness of present operations and to evaluate the need to extend activities to additional agencies and offices.

The Committee reported S. 2005 on July 31, 1986. The legislation was subsequently approved by the Senate on October 18, 1986.

S. 2426: THE CONTRACT DISPUTES ACT OF 1986

The Contract Disputes Act was introduced by Senator Cohen on May 8, 1986. This legislation amended the Contract Disputes Act of 1978 to make certain requirements regarding the selection and status of members of boards of contract appeals and to revise procedures for the collection of claims under government contracts.

S. 2426 stipulated that members of boards of contract appeals would be determined by a competitive selection process. Applicants would be judged according to a civil service competitive examina-

tion which would demonstrate the individual's public contract law experience. A separate roster of all eligible applicants would be maintained.

The legislation also established an 18-month failing period for the settlement of claims against the government for damages resulting from contract disputes. Contractors would be given 180 days (previously 90 days) from the date of receipt of the contracting officer's decision in the dispute to appeal to the board of contract appeals. The contractor would have 180 days (previously 12 months) to appeal the board of contract appeal's decision to the U.S. Claims Court.

S. 2426 was reported on July 31, 1986, and passed the Senate by voice vote on August 13, 1986.

S. 2479: THE PROMPT PAYMENT ACT OF 1986

Senator Trible introduced S. 2479 on May 21, 1986. This legislation was designed to strengthen the debt collection legislation passed in 1982, by enforcing prompt payment of vendor invoices by the federal government.

Firms contracting with the federal government are often inconvenienced because the government fails to pay its bills promptly. This practice is particularly burdensome to small businesses. Examination of this issue showed that some federal agencies routinely delay payment after the due date on nearly 25 percent of their outstanding invoices.

S. 2479 clarified federal agency responsibility for making payment within 30 days. The legislation also guaranteed interest payments to contractors if payment were not received by the end of the 30 days. If an interest payment were not made within a 10-day period from the due date, the contractor could elect to seek the award of double interest payments.

S. 2479 was reported on October 2 and passed the Senate on October 15, 1986.

S.J. RES. 190: A RESOLUTION TO ESTABLISH GREATER PRODUCTIVITY IN FEDERAL GOVERNMENT OPERATIONS AS A NATIONAL GOAL OF THE UNITED STATES

This resolution was introduced on August 1, 1985, by Chairman Roth, and 10 cosponsors. It declared increased productivity in Federal Government operations as a national goal, and encouraged the President to make the necessary recommendations to the Congress for achieving this goal.

S.J. Res. 190 was reported by the Committee on August 8, 1986, and passed by the Senate on August 15, 1986.

MEASURES WHICH WERE REPORTED FROM THE COMMITTEE

S. 528: THE BIPARTISAN COMMISSION ON CONGRESSIONAL CAMPAIGN FINANCING ACT

This legislation, introduced on February 27, 1986, by Senator Rudman and 28 cosponsors, would have established a bipartisan commission on Congressional campaign financing. The purpose would have been to produce findings and offer legislative recom-

mendations for changes in Federal laws and regulations to foster increased participation by qualified candidates, as well as political parties in the electoral process; to promote public confidence in the electoral and legislative processes; and to protect the integrity of the legislative process.

S. 528 was reported by the Committee on August 13, 1986.

S. 1134: THE PROGRAM FRAUD CIVIL REMEDIES ACT

This legislation was enacted within the Omnibus Reconciliation Act of 1986, completing a persistent legislative course started by Chairman Roth in the Governmental Affairs Committee back in 1981, and given strong support by Senators Cohen and Levin in the 99th Congress. The "Program Fraud Civil Remedies Act" provided executive branch agencies with the means to pursue settlement in "small fraud" cases—those totaling less than $150,000.

In the past, all fraud cases were referred to the Justice Department for prosecution. Unfortunately, limited time and resources prevented the Justice Department from pursuing many of the cases it received. S. 1134 would have allowed agencies to utilize administrative proceedings in order to regain lost revenues and would have imposed stiff monetary penalties for small fraud offenses. The bill set fines of up to $5,000 for each violation and provided for the award of double damages.

S. 1134 was introduced in the 99th Congress on May 15, 1985, by Senators Roth and Cohen. The Committee favorably reported the bill on December 10, 1985. S. 1134 was incorporated into the Omnibus Reconciliation Act of 1986, which was signed into law on October 21, 1986. (For further discussion of this measure see the Reconciliation section of this report.)

S. 2230: THE FEDERAL MANAGEMENT REORGANIZATION AND COST CONTROL ACT OF 1986

In an effort to strengthen the overall management of the federal government, Senator Roth introduced S. 2230 on March 26, 1986. The legislation was designed to improve the government's financial systems, foster economy and efficiency in government programs, improve leadership in executive departments and agencies, and increase the capacity of these departments and agencies to carry out their responsibilities. To ensure increased emphasis on improving government management, S. 2230 split the management and budget functions presently contained in the Office of Management and Budget and created a separate Office of Financial Management to deal solely with federal management issues.

S. 2230 detailed specific responsibilities in OMB in the areas of financial management, general management improvement and evaluation, productivity improvement, human resources management, and organization and coordination. It mandated the development and implementation of uniform financial systems in federal agencies, and provided incentives for streamlined cash and credit transactions. The bill also stressed improved coordination in federal information policy by authorizing appropriations for the Office of Information and Regulatory Affairs (FY87–90) and requiring confirmation of the Administrator of OIRA by the Senate. The OIRA

provision (Title VI of S. 2230) became separate legislation (S. 2887) which was incorporated into the Omnibus appropriations measure and passed.

The Committee reported S. 2230 on July 31, 1986. (For further information concerning the OIRA reauthorization see the Other Reforms section of this report.)

H.R. 2436: THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1985

In addition to establishing a coordinated National Nutrition Monitoring and Related Research Program, H.R. 2436 would have developed a comprehensive plan for assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply. Provisions would have been made in the legislation to conduct scientific research and development in support of this plan.

H.R. 2436 passed the House of Representatives on June 26, 1986, and was referred to the Governmental Affairs Committee on July 14, 1986. The Committee, which also considered a Senate companion bill, S. 1569, reported H.R. 2436 on October 3, 1986. The legislation was placed on the Senate calendar, but no further action was taken before the end of the session.

Reconciliation

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

S. Con. Res. 32, the First Concurrent Resolution on the Budget for fiscal year 1986, mandated the Governmental Affairs Committee to derive $12.6 billion in savings during the next three fiscal years (FY86-88). The Committee transmitted its reconciliation recommendations to the Senate Budget Committee on September 27, 1985, in accordance with the reconciliation instructions. As required, the Committee passed a legislative package which projected savings of $13.2 billion during the next three fiscal years. These savings derived from limiting the revenue foregone appropriation to the U.S. Postal Service, freezing Federal civilian pay in fiscal year 1986, transferring surplus monetary reserves from the Federal Employees' Health Benefits Program to the Government, making additional administrative changes in the Civil Service, and authorizing efficient, multi-year contracting for civilian agencies.

The Senate Budget Committee reported S. 1730, a bill incorporating the Governmental Affairs Committee reconciliation recommendations on October 2, 1985. The Senate included S. 1730 in H.R. 3128 and passed the measure by a vote of 93-6 on November 11, 1985. The conference committee reported its agreement on December 19, 1985, and the Senate passed the conference report by voice vote on March 18, 1986. The House approved the report on March 20, and the measure was signed into law on April 7, 1986 (Public Law 99-272).

OMNIBUS BUDGET RECONCILIATION ACT OF 1986

S. Con. Res. 120, the Budget Resolution for fiscal year 1987, mandated the Governmental Affairs Committee to derive $300 million

in savings during the next three fiscal years (FY87-FY89). The Committee transmitted its reconciliation recommendations to the Senate Budget Committee on July 29, 1986. Pursuant to S. Con. Res. 120, the Committee approved legislation designed to save $360 million during three years. Savings were achieved through changes in the election period for employees to contribute to the thrift savings plan in the new Federal Employees' Retirement Plan, revision of the method of computing the revenue foregone appropriation for the U.S. Postal Service, and the monetary penalties to be garnered through the Program Civil Fraud Remedies Act of 1986.

The Senate Budget Committee reported S. 2706, a bill incorporating the Governmental Affairs Committee reconciliation recommendations, on July 31, 1986. The Senate incorporated S. 2706 into H.R. 5300 and passed the bill by voice vote on September 25, 1986. The Senate agreed to the conference report on H.R. 5300 on October 17, 1986, and the legislation became law on October 21, 1986 (Public Law 99-509). The conference agreement contained slightly more than $250 million in savings from recommendations offered by the Committee.

The final conference agreement included additional items under the Governmental Affairs Committee jurisdiction which did not have an immediate impact on the budget. These items included language modifying the authority of the Treasury to suspend investment or to disinvest assets of the Civil Service Retirement and Disability Fund, the exempting of certain cost-of-living-adjustments (COLA's) from a possible sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), and extension through 1987, with some modifications, of certain Senate rules prohibiting the inclusion of extraneous measures in a reconciliation bill or resolution (Byrd Rule), and outlining procedures for dealing with extraneous measures when considering a reconciliation bill or resolution (Roth Rule).

Grace Commission Legislation

The Committee also examined the recommendations contained in the report of the President's Private Sector Survey on Cost Control, better known as the Grace Commission. After hearings on this subject, Senator Roth introduced or cosponsored a number of legislative measures designed to incorporate 15 of the cost-savings proposals contained in the Grace Commission report. Three of these bills were referred to the Committee:

S. 2621—The Federal Performance of Commercial Activities Improvement Act of 1986.

A bill to increase, where cost effective, the government's use of the private sector to provide goods and services.

S. 2626—The Border Management Consolidation and Improvement Act of 1986.

A bill to strengthen law enforcement at U.S. borders and ports and reduce the cost of border management.

S. 2630—The Defense Transportation Bill Audit Improvement Act of 1986.

A bill to strengthen transportation bill auditing and reduce the backlog of audits.

The language of S. 2630 was substituted in lieu of language in the House measure, H.R. 5420. The Senate passed H.R. 5420 on October 18, 1986, and the President signed this measure into law (Public Law 99-627) on November 7, 1986.

Other Reforms

FEDERAL EARLY RETIREMENT

One of the most significant efforts considered by the Committee during the 99th Congress involved legislation to permit eligible Federal employees to take voluntary early retirement from government service. This legislation, S. 2197, the "Federal Employees' Optional Early Retirement Act of 1986," was introduced by Senators Roth and Stevens on March 14, 1986.

S. 2197 proposed a plan to allow federal employees to choose early retirement during a one-time only "window" period. Employees who met any of four age and service eligibility categories could opt for early retirement with full or partially reduced benefits.

Upon its introduction, S. 2197 generated enormous interest among federal employees, as well as considerable opposition among some federal agencies and employee union groups. Despite frequent and intense negotiations on this measure, no agreement could be reached on S. 2197 before the end of the 99th Congress.

REAUTHORIZATION OF OIRA

The bill to reauthorize funds for the Office of Information and Regulatory Affairs (OIRA), S. 2887, was originally included as Title VI of S. 2230, the Federal Managment Reorganization Act of 1986. Title VI was separated out and introduced as S. 2887 by Senator Roth on September 27, 1986.

Under this legislation, appropriations for OIRA are authorized for an additional four years, fiscal years 1987 through 1990. The Administrator of OIRA will be appointed by the President, subject to confirmation by the Senate. The bill will also consolidate the federal telecommunications and automatic data processing funds in the Information Technology Fund and clarify existing law on federal information policy.

S. 2887 was reported by the Committee on September 25, 1986. It was incorporated into the Omnibus Appropriations Act which was approved by both the House and Senate on October 17, 1986. The Appropriations bill was signed into law on October 18, 1986 (Public Law 99-500).

VIII. Presidential Nominations

The Committee received a total of 39 nominations during the 99th Congress, of which 33 were confirmed by the Senate. The nominations received are as follows with those not receiving confirmation duly noted:

District of Columbia Court of Appeals—Associate Judges:
John M. Steadman
District of Columbia Superior Court—Associate Judges:
Harold L. Cushenberry, Jr.
Herbert B. Dixon

Richard A. Levie
Evelyn Crawford Queen
Michael L. Rankin
John H. Suda
Curtis E. Von Kann

Federal Emergency Management Agency:
Julius W. Becton Jr., Director
James P. McNeill, Associate Director

Federal Labor Relations Authority—Members:
Jerry Lee Calhoun
Henry Bowen Frazier, III [1]
Jean McKee
William J. McGinnis, Jr.[2]

General Services Administration:
Terence C. Golden, Administrator

Inspectors General:
Paul A. Adams, Department of Housing and Urban Development
William R. Barton, General Services Administration
Robert W. Beuley, Department of Agriculture
Bill D. Colvin, National Aeronautics and Space Administration
John W. Melchner, Department of Transportation
James R. Richards, Department of the Interior

Merit Systems Protection Board:
Daniel R. Levinson, Chairman
Mary F. Wieseman, Special Counsel

National Archives and Records Administration:
John Agresto [3]

Office of Federal Procurement Policy:
Robert P. Bedell, Administrator

Office of Management and Budget:
James C. Miller III, Director

Office of Personnel Management:
James E. Colvard, Deputy Director
Donald J. Devine [4]
Constance J. Horner, Director

Special Panel on Appeals:
Barbara Jean Mahone, Chairman

U.S. Postal Rate Commission:
Henrietta F. Guiton
Patti Birge Tyson
Janet D. Steiger

U.S. Postal Service Board of Governors:
John N. Griesemer
J.H. Tyler McConnell
Crocker Nevin

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[1] Hearings held July 16 and 17, 1986, and favorably reported to the Senate October 2, 1986; no Senate vote prior to adjournment.
[2] No hearings held; no committee vote.
[3] Position of Archivist of the United States. Hearings held August 13 and September 9 and 10, 1986. No committee vote.
[4] Reappointment as Director. Hearings held April 1, 2, 3 and June 4 and 5, 1985. Nomination withdrawn by the President on July 24, 1985.

U.S. Postal Service Board of Governors (continued):
Norma Pace [5]
Robert Setrakian
Barry D. Schreiber [6]

IX. Quick Index to Legislation

MEASURES ENACTED INTO LAW

S. 386—to confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest and Dianna Pritchett. Signed on November 6, 1986 (Public Law 99-614).

S. 992—to eliminate certain agency reporting requirements to Congress. Signed on August 22, 1986 (Public Law 99-386).

S. 1027—for the relief of Kenneth David Franklin. Signed on June 19, 1986 (Public Law 99-3).

S. 1840—to revise the authority relating to the payment of subsistence allowances to government employees for periods of official travel. Signed on January 2, 1986 (Public Law 99-234).

S. 2452—to designate the U.S. Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt Sr. Post Office Building." Signed on November 7, 1986 (Public Law 99-636).

H.R. 2694—to designate the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building." Signed on December 23, 1985 (Public Law 99-210).

H.R. 2721—to require the collection of statistics on domestic textile and apparel industries. Signed on October 14, 1986 (Public Law 99-467).

H.R. 2722—to eliminate the requirement relating to decennial censuses of drainage. Signed on October 27, 1986 (Public Law 99-544).

H.R. 2776—to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia. Signed on October 29, 1986 (Public Law 99-581).

H.R. 3002—to provide for the establishment of an experimental program allowing private corporations to pay the salaries and expenses of participants in an executive exchange program of the government. Signed on September 30, 1986 (Public Law 99-424).

H.R. 3168—to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds. Signed on October 27, 1986 (Public Law 99-547).

H.R. 3447—to amend the Congressional Award Act to require that Congressional leaders responsible for appointing members to the Congressional Award Board appoint a Member of Congress to such Board. Signed on November 25, 1985 (Public Law 99-161).

H.R. 3718—to waive the period of Congressional review for certain District of Columbia Acts authorizing the issuance of revenue bonds. Signed on December 26, 1985 (Public Law 99-216).

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[5] Nomination received just prior to adjournment of 99th Congress; no committee action taken.
[6] Hearing held December 13, 1985. Nomination withdrawn by the President on February 21, 1986.

H.R. 5626—making technical corrections in the Federal Employees' Retirement System bill. Signed on October 27, 1986 (Public Law 99-556).

RESOLUTIONS AGREED TO

S. Res. 478—to express the sense of the Senate that the regulations promulgated by the National Archives and Records Administration setting forth procedures for the preservation and protection of, and access to historical materials of the Nixon Administration, meet the requirements of the Presidential Recordings and Preservation Materials Act of 1974. Passed by voice vote on August 15, 1986.

S. Res. 509—to outline procedures for the consideration of extraneous measures in relation to the consideration of Senate reconciliation bills or resolutions. Passed by voice vote on October 16, 1986.

MEASURES PASSED IN THE SENATE

S. 249—to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Incorporated into the Highway bill (H.R. 3129) and passed on September 24, 1986.

S. 786—to create an Information Age Commission. Passed by voice vote on October 9, 1986.

S. 1209—to establish the National Commission to Prevent Infant Mortality. Passed by voice vote on October 9, 1986.

S. 1271—to authorize appropriations for fiscal year 1986 for intelligence activities of the United States Government, the Intelligence Community staff and the Central Intelligence Retirement and Disability System. Passed by voice vote on September 26, 1985.

S. 1620—to establish a National Council on Access to Health Care. Passed by voice vote on October 8, 1986.

S. 1919—to establish a national task force to examine issues associated with abuse of the elderly. Passed by voice vote on February 19, 1986.

S. 2447—to authorize appropriations for fiscal year 1987 for intelligence activities of the United States Government, the Intelligence Community staff and the Central Intelligence Agency Retirement and Disability System. The Senate incorporated this measure into H.R. 4759, and passed the House bill by voice vote on September 24, 1986.

S. 2723—to restore limited circulation, second-class rates of postage for copies of a publication mailed to counties adjacent to the county of publication. Passed by voice vote on October 8, 1986.

MEASURES REPORTED BY THE COMMITTEE

S. 1657—to change the requirements for the submission of certain reorganization plans to Congress. Reported on August 11, 1986.

S. 1937—to restrict smoking to designated areas in all Federal Government buildings. An original bill (in lieu of S. 1440), reported on December 12, 1985.

S. 2134—to afford Postal Service employees the same procedural and appeal rights given other employees of the Federal Government in regard to adverse personnel actions. Reported on September 12, 1986.

S. 2433—to provide a simplified competitive acquisition technique for certain Federal Government procurements. Reported on September 23, 1986.

S. 2551—to create a National Center on Youth Suicide under the Office of Justice Programs in the Department of Justice. Reported on September 25, 1986.

[99th Congress]

COMMITTEE ON GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

REPORT OF ACTIVITIES

JANUARY 1985–DECEMBER 1986

William V. Roth, Jr.
Chairman

Warren Rudman
Vice-Chairman

Sam Nunn
Ranking Minority Member

Daniel F. Rinzel
Chief Counsel

ELEANORE HILL
Minority Chief Counsel

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I. Historical Background

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At that time, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. In 1952, the parent committee's name was changed to Committee on Government Operations and in early 1977 to Committee on Governmental Affairs. The Subcommittee's records and jurisdiction actually antedate its creation since it was given custody of the files and records and assumed some of the jurisdiction of the old Special Committee to Investigate the National Defense Program (the so-called War Investigating Committee), chaired by Senator Harry S. Truman during World War II.

The Subcommittee has had seven Chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–1954), John L. McClellan of Arkansas (1955–1972), Henry M. Jackson of Washington (1973–1978), Sam Nunn of Georgia (1979–1980) (1987 to present), and William V. Roth, Jr. of Delaware (1981 to 1986).

Until 1957, the Subcommittee's jurisdiction was principally the investigation of waste, inefficiency, impropriety, and illegality in government operations. It has been expanded considerably since then. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field chaired also by Senator McClellan. This Committee was composed of eight Senators—four of whom were drawn from the Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee was in operation for three years sharing office space, personnel, and other facilities in common with the Permanent Subcommittee.

Upon the expiration of the Select Committee in early 1960, its jurisdiction and files were transferred to the Subcommittee, greatly enlarging the Subcommittee's investigative authority in the labor-management area.

The Subcommittee's jurisdiction was broadened further in future years. In 1961, authority was granted for inquiries into syndicated or organized crime. The famous Valachi hearings were held in 1963. In the wake of the riots and civil disturbances that marked the summer of 1967, a Resolution was approved directing the Subcommittee to investigate the causes and to recommend corrective action. In January 1973, the National Security Subcommittee was merged with the Subcommittee. With this, the Subcommittee's jurisdiction was further enlarged to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer, and related matters. And, in 1974, jurisdiction was conferred to investigate the

government operations involving the control and management of energy resources and supplies.

Armed with this broad jurisdictional mandate, the Subcommittee has initiated investigations into a wide variety of topics during the past decade ranging from child pornography and pedophilia to espionage. A significant number of these investigations have involved a review of organized crime activities, including labor racketeering, fraudulent union insurance plans, and newly emerging criminal groups. The Subcommittee has also spent considerable effort reviewing all aspects of narcotics trafficking, including money laundering, federal drug enforcement and drug abuse.

II. Hearings

CHILD PORNOGRAPHY

The Subcommittee continued an investigation begun in the 98th Congress into the importation, distribution and use of child pornography in the United States, particularly by pedophiles and child molesters. On February 21, 1985, PSI conducted a hearing on the activities of child molesters and their use of child pornography to seduce and blackmail their victims; the nature and structure of organized pedophile organizations in the United States; the activities of law enforcement agencies in enforcing child pornography laws; and the efforts of the U.S. government to enlist the cooperation of foreign governments, particularly Denmark, Sweden, and the Netherlands, in halting the export of child pornography to the United States.

Following the hearing, the Subcommittee prepared a report, entitled "Child Pornography and Pedophilia," which concluded that child pornography plays a central role in child molestations by pedophiles, that most child pornography in the United States is produced and distributed by individual pedophiles for little or no profit, and that increased international attention and stricter law enforcement has brought about a dramatic decline in the amount of child pornography available in the United States. In its report, the Subcommittee recommended that Congress enact legislation prohibiting the advertising of child pornography and child prostitution (see section on legislation, infra); that the Executive Branch, in cooperation with foreign governments, increase its pressure on foreign child pornographers; and that regional child sexual exploitation task forces be created to improve the exchange of information on pornographers and child molesters among federal, state and local law enforcement authorities. Following the Subcommittee's first hearing, an interagency task force (led by the Department of State) was established and held several meetings with officials of the Dutch, Danish, and Swedish governments. The meetings were called to try to improve international law enforcement efforts to stop the creation and flow of child pornography.

DOMESTIC MONEY LAUNDERING

Recognizing the link between money laundering, organized crime and drug trafficking, the Subcommittee investigated offshore banking and domestic money laundering. The Subcommittee focused its

attention on the Bank Secrecy Act, which contains reporting requirements designed to foil the money laundering schemes of drug traffickers and other criminals by leaving a paper trail for law enforcement officials to follow. In a series of hearings, PSI examined whether financial institutions were complying with the reporting requirements of the Act and whether the responsible federal agencies were properly enforcing it.

On February 7, 1985, the First National Bank of Boston pleaded guilty to Bank Secrecy Act violations, specifically, failing to report over $1.2 billion in international cash transfers. On March 12, 1985, the Subcommittee heard testimony from representatives of that bank and another Massachusetts institution as well as the federal regulatory agencies which oversee the Act. On July 25, 1985, the Subcommittee held a hearing on allegations of money laundering by financial institutions in Puerto Rico and the enforcement efforts of the Federal Home Loan Bank Board.

The investigation revealed widespread failures on the part of the banking industry to comply with the Act and on the part of the regulatory agencies to enforce it. On October 29, 1985, and again on June 12, 1986, the Subcommittee heard from the General Accounting Office which corroborated the Subcommittee findings. In August of 1985, PSI issued report No. 99-130, entitled "Crime and Secrecy; The Use of Offshore Banks and Companies."

In December 1986, the Subcommittee issued Committee Print No. 99-201 entitled "Domestic Money Laundering: Bank Secrecy Act Compliance and Enforcement." The Subcommittee recognized that the Bank Secrecy Act is potentially one of the most effective tools available to law enforcement in the war against crime, but faulted bank regulators for failing to vigorously enforce the Act and recommended that the financial institutions improve their compliance with the Act's requirements as well. In light of the passage during the final days of the 99th Congress of the Anti-Drug Abuse Act of 1986, which included extensive provisions dealing with money laundering, the Subcommittee urged strict adherence to the new legislation and Congressional review of these enforcement efforts at the earliest appropriate time.

ENTERTAINMENT INDUSTRY AND DRUGS

In its efforts to reduce the demand for illicit drugs, especially by our nation's youth, PSI continued to examine the role of the entertainment industry in "deglamourizing" drugs. On March 20, 1985, in a hearing focusing on the television industry, PSI heard executives from the three major television networks describe their programming guidelines and anti-drug abuse program plans. The Subcommittee also heard from industry representatives, including television star Gerald McRaney, about the media's effect on the youth of this country. On October 24, 1985, the Subcommittee held a hearing which focused on the feature film industry. Witnesses, including Jack Valenti, president of the Motion Picture Association of America (MPAA), representatives from parents and religious groups, and noted film and television star, William Shatner, testified about what the industry currently is doing and what more it could do to discourage drug use. The witnesses presented their

views on changing the movie rating system to provide the public with more information about the drug content of films, so as to enable parents to make more well-informed decisions about which films their children should see.

As a result of these hearings, PSI found that the television industry and, to a lesser extent, the film industry was making an effort to deglamourize drugs. Chairman Roth and other Senators encouraged the MPAA to take a more active role in the nation's fight against drug abuse. In response, Mr. Valenti announced that the MPAA had approved a new guideline for its Ratings Board which provides that no film showing drug use will be rated lower than a "PG-13". Also, as recommended by Senator Roth, the MPAA added to the ratings ballot used by its Ratings Board the category of "drug use" to ensure that drug content is specifically considered when reviewing a film. A Subcommittee report on the role of the entertainment industry in deglamourizing drugs is in progress.

FEDERAL GOVERNMENT SECURITY CLEARANCE PROGRAMS

Under the direction of Senator Nunn, the Subcommittee's Ranking Minority Member, the Minority staff conducted an extensive investigation of the policies and procedures for granting security clearances. This investigation and its subsequent hearing was the first comprehensive Congressional review of the nation's security clearance system since its establishment in the early 1950's.

The investigation resulted in four days of public hearings on April 16, 17, 18, and 25, 1985. At the hearings, 22 witnesses testified in 450 pages of stenographic transcript with 26 exhibits and 18 statements submitted for the hearing record.

Testimony highlighted shortcomings in the Federal Government security clearance program, including rising numbers of clearance requests in the face of inadequate background checks and reductions in investigative manpower. These pressures also resulted in a deterioration in the scope and depth of the investigations conducted as well as the number of periodic reinvestigations performed.

Several witnesses who had been involved in espionage cases highlighted lapses in the personnel security program that contributed to the transfer of classified national security information to agents of hostile intelligence services.

Senators Roth and Nunn later issued a statement describing a number of the major shortcomings in the clearance system and making suggestions for immediate improvements. Most of these recommendations were later endorsed by the Department of Defense Security Review Commission in their December 1985 report to Secretary Weinberger who, in turn, ordered their implementation.

Senator Nunn also offered an amendment to the Intelligence Authorization Act of 1986, which was enacted into law, granting the Department of Defense, the Office of Personnel Management and the Central Intelligence Agency access to state and local criminal justice records of individuals being investigated for security clearances or for potential employment in sensitive national security positions. The bill was drafted in response to testimony received during the course of the hearings.

A Subcommittee report on the security clearance investigation was prepared and filed in January 1986. In it, the Subcommittee called for a comprehensive revamping of the government's security clearance system and recommended 22 specific areas for needed improvement.

WEIGHT REDUCTION PRODUCTS AND PLANS

In early 1985, the Subcommittee began an inquiry into a variety of weight reduction products and plans. The basic purpose of the inquiry was to assess the extent to which federal agencies have been monitoring and regulating these products, in terms of both safety and advertising methods. These diet plans generally substitute very low-calorie powders and drinks for meals, and have raised concern among medical and nutritional experts as reports of illnesses and deaths have surfaced. Much of the PSI investigation focused on the Herbalife diet plan because of the attention which this plan had received in the news media, regulatory action against the Herbalife Corporation by federal and state authorities, and the huge revenues generated by this product through its direct sales procedures (over $500 million annually).

On May 14 and 15, 1985, the Subcommittee held public hearings and heard from medical, nutritional and herbal experts; federal regulatory agencies, including FDA Commisisoner Dr. Frank Young; diet product consumers; a mail order marketer, and the presidents of the Cambridge and Herbalife companies. At the hearing, the Chief Executive Officer of Herbalife announced publicly his intention to make at least one labeling change to provide more information on the content of his products to consumers.

ESPIONAGE

During the 99th Congress, the Subcommittee investigated the activities of hostile foreign intelligence services in the United States. During three days of hearings on October 22, 1985, December 3, 1985, and December 5, 1985, the Subcommittee heard testimony from various members of the intelligence and foreign policy community as well as a former Czechoslovakian intelligence official who defected to the Untied States and a convicted American spy. The hearings revealed that the Soviet Union has increased its reliance on Eastern bloc intelligence officers to conduct intelligence activities in the United States, both from official and corporate bases of operation. The Subcommittee learned that both the Soviets and their surrogates, the Eastern bloc nations, use facilities of U.S.-incorporated businesses to disguised their espionage activities.

This work was a logical extension of the Roth Amendment to the State Department Authorization Act, S. 1003, which passed on June 10, 1985, and was signed into law on August 16, 1985 (P.L. 99–93). The amendment requires that members of the United Nations Secretariat shall be subject to the same terms, limitations and restrictions as those imposed on members of their home mission. In effect, this amendment imposed travel restrictions on United Nations Secretariat representatives/employees from the Soviet Union, Afghanistan, Vietnam, Libya, Iran and Cuba.

A Subcommittee report on the activities of hostile foreign intelligence services in the United States is pending and will be issued during the 100th Congress.

AIRLINE SAFETY

In terms of fatalities, 1985 was one of the worst years in the history of U.S. commercial fatalities. In the wake of these tragic events, the Subcommittee held two days of hearings in March 1986, on the bipartisan investigation conducted jointly by Majority and Minority staff. (The investigation was begun at the request of Senator John Glenn.) The Subcommittee placed special emphasis on the Federal Aviation Administration's oversight of the operations and maintenance of airlines and heard testimony from current and former FAA personnel, pilots, airline management and Senator Paul Simon.

Testimony from three former FAA inspectors and three commercial pilots highlighted ongoing safety shortcomings in the airline industry. Their testimony, based upon years of personal experience, indicated that FAA manpower and training shortages undercut the FAA's ability to insure compliance with safety standards within the airline industry.

During the hearings, pilot witnesses testified that airline employees, who are in a unique position to observe inadequate safety practices by their air carriers, are often reluctant to report safety violations to the FAA. One reason for this reluctance is the fear of retaliation by their employers. Responding to these concerns, Senator Roth introduced legislation to amend the Federal Aviation Act to prohibit reprisals by air carriers against their officers, employees and contractors for reporting apparent safety violations to the FAA, the National Transportation Safety Board or the United States Congress.

THE DEPARTMENT OF JUSTICE HANDLING OF THE JACKIE PRESSER GHOSTWORKERS CASE

In July 1985, the U.S. Department of Justice declined the prosecution of Jackie Presser, president of the International Brotherhood of Teamsters, following a 32-month investigation into allegations that Mr. Presser was involved in placing and maintaining persons on the payroll of Local 507 (Cleveland) who did no work ("ghostworkers"). Senators Roth and Nunn immediately announced that PSI would conduct an investigation of the handling of this matter by the Departments of Justice and Labor.

This inquiry culminated in the release of a Subcommittee staff study and a public hearing in May 1986. Although the staff found no evidence to support allegations of political interference in the decision not to prosecute Mr. Presser, the staff did find an alarming lack of coordination among the Department of Justice, the Department of Labor and the FBI in the Presser investigation as well as others. The staff study and testimony before the Subcommittee revealed an ongoing dispute between the Department of Labor and the FBI over which agency has jurisdiction to investigate criminal violations of labor laws. This dispute clearly worked to the detriment of the Presser investigation.

During the hearing, the Subcommittee received testimony from representatives of the Department of Justice and the Department of Labor, the General Accounting Office (which was asked to review prior cases involving the Teamsters), and one of the alleged ghostworkers. The FBI refused to provide access to files and personnel during the Subcommittee's investigation. It was learned that the Department of Justice declined to prosecute Mr. Presser, because FBI agents allegedly "authorized" him to hire ghostworkers.

Subsequent to the announcement of PSI's investigation, the Department of Justice initiated an internal inquiry. As a result of this inquiry, which found that the "authorization" may have been fabricated, federal grand juries were convened in Washington, D.C. and in Cleveland. Shortly after PSI's hearing, an FBI agent was indicted for perjury, and Mr. Presser and two union associates were indicted for embezzling union funds (the original charges which the Department had declined to pursue).

Since its hearing, PSI has continued to monitor efforts to develop a new memorandum of understanding between the Department of Labor and the Department of Justice regarding criminal labor law jurisdiction.

"CRACK" COCAINE

The epidemic rise in the use of cocaine in the extremely pure form known as "crack" became the subject of a July 15, 1986 hearing before the Permanent Subcommittee on Investigations. This hearing was the result of a Minority staff investigation prompted by the concerns of Senator Lawton Chiles over the unprecedented increase in its use by drug addicts in the State of Florida.

Witnesses from law enforcement and the medical community highlighted its growing popularity as well as its highly addictive nature. Testimony showed that since the drug is so inexpensive to buy, it is readily used by drug dealers to lure unsuspecting teenagers to become regular clients. Again, due to its low cost as well as its potency, the witnesses warned of its frequently lethal side effects.

Shortly before the hearing, Senator Chiles introduced legislation which greatly increased the penalties for "crack" trafficking and amended current federal statute to assist law enforcement efforts in combatting this epidemic. Chairman Roth and Senator Nunn cosponsored the measures. Due in part to PSI's hearing which publicly exposed the extent of this problem, these legislative proposals were included as part of the Anti-Drug Abuse Act of 1986 which was signed into law on October 27, 1986.

EMERGING CRIMINAL GROUPS—NIGERIANS

In early 1985, the Subcommittee began an inquiry into the receipt of federal benefit program funds by illegal aliens. This inquiry developed into a review of emerging criminal groups and included a review of Nigerians residing in the United States who were involved in criminal activities. A public hearing was held on September 17, 1986, with witnesses including representatives of the Department of Justice, Postal Inspection Service, Immigration and

Naturalization Service, and Georgia Bureau of Investigation. Testimony was also received from a Nigerian citizen who had been involved in credit card fraud in New York.

The evidence presented at the hearing indicated that Nigerians, working alone and in groups, have become involved in numerous criminal activities, includng heroin trafficking, credit card fraud, insurance fraud, and entitlement fraud. Almost all of the Nigerians involved in these activities were in the United States illegally, using false passports and visas or abusing their status as foreign students. Deportation back to Nigeria serves little purpose since false identification documents are readily available and individuals can readily return to the United States.

The evidence differed as to whether a national organized enterprise exists (as found in La Cosa Nostra). However, Nigerian narcotics trafficking groups certainly exhibit more of an organizational structure than those Nigerians involved in financial fraud activities.

EMERGING CRIMINAL GROUPS—ASIANS

As part of its exploration of nontraditional organized crime, PSI examined criminal groups of Japanese, Chinese, Vietnamese and Korean descent to determine if these were "emerging criminal groups," and if so, whether Federal law enforcement agencies were responding appropriately. PSI held a public hearing on September 24, 1986, which focused on Chinese and Vietnamese criminal groups. Witnesses included representatives from local law enforcement agencies and the Drug Enforcement Agency.

Evidence gleaned during the investigation indicated that there are a number of emerging criminal groups from Japan, Hong Kong, Taiwan, Vietnam, and Korea. The Chinese groups, in particular, were found to be well organized into gangs in this country and are engaged in numerous criminal activities, including extortion, gambling, prostitution, and heroin trafficking. Evidence also suggests connections between the Chinese gangs in this country and sophisticated criminal cartels in Hong Kong. This may be a substantial cause for future concern in light of the fact that in 1997 the government of Hong Kong is scheduled to be turned over to the Peoples Republic of China; and many predict that members of the cartel will move to other countries, including the United States.

The hearings revealed the need for cooperation in this area between law enforcement agencies of the different states as well as countries.

III. Legislative Activities

The Subcommittee does not have legislative authority, but its investigations contributed to the development of the following legislative initiatives:

S. 2398: The Child Sexual Abuse and Pornography Act of 1986. (By Senator Roth.) Original cosponsors: Senators Nunn, Denton, Exon, Bumpers, Trible, Mattingly, Kassebaum, Grassley, Boren, DeConcini, Gramm, Chiles and Nickles. Additional cosponsors: Senators Hawkins, East, Specter, Andrews, Heinz, Hatch, Stevens, Murkowski, Quayle and Burdick.

This bill, based on the Subcommittee's investigation of child pornography and pedophilia, was introduced by Senator Roth on May 1, 1986. Its purpose was to close several loopholes in the federal statutes outlawing child pornography and interstate transportation for immoral purposes. The legislation prohibited the creation or publication of advertisements offering or soliciting child pornography or sexually explicit conduct with a minor. The bill also amended the Mann Act (18 U.S.C. 2421-23) to prohibit the interstate transportation of males as well as females for the purpose of prostitution or other illegal sexual activity, thus making the statute sex neutral. At Senator Roth's urging, a companion measure, H.R. 5560, was introduced in the House by Rep. William Hughes on September 19, 1986, and passed the House on September 29. The Senate passed H.R. 5560 by voice vote on October 18, and the Act was signed into law on November 7, 1986 (P.L. 99-628).

S. 1160: National Security Council Amendment to the Department of Defense Authorization Act. (By Senator Nunn.)

At conference, Senator Nunn offered an amendment to the Department of Defense Authorization Act which would require the National Security Council to formulate a consistent and uniform personnel security program for the government pursuant to the framework established by the 1983 National Security Decision Directive on Safeguarding National Security Information (NSDD-84). The need for such action had been highlighted in the 1985 PSI security clearance hearings.

The amendment was accepted by the conferees and passed the Senate on July 30, 1985. The House passed the measure as amended on October 29, 1985. The Act, with Senator Nunn's amendment, was signed into law on November 8, 1985 (P.L. 99-145).

S. 1900: Amendment to the Foreign Agents Registration Act of 1938. (By Senator Roth.) Original cosponsors: Senators Nunn and Cohen. Additional cosponsors: Senators Glenn, Exon, Hart, Wallop, Symms, Boren, Mattingly, Rudman, Chiles, Riegle, Specter, Kennedy, Hecht, Dole, Bumpers, Burdick, Ford, Dixon, Warner, Wilson, Kasten, Proxmire, Quayle, Mitchell, Armstrong, Boschwitz, Heinz, Moynihan, Gore, Bingaman, Denton, Hatch and Nickles.

During its 1985 investigation of foreign intelligence activities in the U.S., the Subcommittee learned that private U.S.-incorporated businesses, directed by Soviet or Soviet bloc citizens, have been used as bases of foreign espionage activities. The Chairman introduced S. 1900 to amend the Foreign Agent's Registration Act, 22 U.S.C., § 6131, so that persons who operate legally incorporated commercial entities in the United States on behalf of certain foreign countries (those being countries of the Soviet bloc in Eastern Europe as well as Cuba) must register with the Attorney General of the United States. Language from S. 1900 was added as an amendment to the Intelligence Authorization Act of 1987 which passed the Senate on October 1, 1986, and was signed into law on October 27, 1986 (P.L. 99-569).

S. 1901: Amendments to the Foreign Missions Act. (By Senator Roth.) Original cosponsors: Senators Nunn and Cohen. Additional cosponsors: Senators Glenn, Exon, Hart, Wallop, Symms, Boren, Mattingly, Rudman, Chiles, Riegle, Specter, Kennedy, Hecht, Dole, Bumpers, Burdick, Ford, Dixon, Warner, Wilson, Kasten, Proxmire,

Quayle, Mitchell, Armstrong, Boschwitz, Heinz, Moynihan, Gore, Bingaman, Denton, Hatch, Nickles.

As a result of PSI's 1985 hearings on hostile foreign espionage activities in the United States on December 5, 1985, Chairman Roth introduced S. 1901 to amend the Foreign Missions Act. The bill was designed to amend the Foreign Missions Act so that any restrictions placed on Soviet officials residing in the U.S. would also apply to officials of the Soviet bloc missions; it was intended to impede the Soviets' use of bloc surrogates in espionage activities. The bill passed the Senate as an amendment to the National Defense Authorization Act. While the provision was left out of the compromise legislation which was signed into public law on November 14, 1986 (P.L. 99-661), substitute language was incorporated into the conference report which implements the trust of S. 1901 by requiring that the U.S. government, under the direction of the State Department, report to the Congress about patterns of intelligence activity by March 1, 1987.

S. 1347: Security Clearance Information Act. (By Senator Nunn.) Cosponsors: Senators Roth, Chiles, Gore and Stevens.

This bill was a result of testimony elicited by the Subcommittee in its 1985 hearings on the Government's security clearance program. It addressed the inability of the Department of Defense, Office of Personnel Management and Central Intelligence Agency investigators to obtain State and local criminal justice records on individuals being considered for access to classified information or sensitive national security duties. The bill authorizes the Federal Government to obtain access to these records upon written consent of the applicant for a Federal security clearance.

Originally introduced on June 25, 1985, it was later accepted as an amendment to S. 1271, the Intelligence Authorization Act for fiscal year 1986. The text of S. 1271 was substituted in lieu of House-passed H.R. 2419 and passed the Senate on September 26, 1985. The House agreed to the Conference Report on November 19, 1985, and passed the Senate on November 21, 1985. The Act, as amended, was signed into law on December 4, 1985 (P.L. 99-169).

S. 2560: Amendment to Schedule I of the Controlled Substances Act to Include Cocaine Freebase. (By Senator Chiles.) Cosponsors: Senators Nunn, Hecht, Boren, Metzenbaum, Bumpers, Matsunaga, Glenn, Nickles and Mathias.

Based in part upon the preliminary investigation performed by the Minority staff in preparation for the July 15, 1986, crack cocaine hearing, this bill was introduced on June 17, 1986, in response to the crack emergency. As worded, S. 2560 provided for increased Federal penalties to respond to the sharp increase in the use of crack cocaine freebase.

This bill was reintroduced as a separate provision of S. 2715, the Emergency Crack Control Act of 1986, which in turn became part of the Anti-Drug Abuse Act of 1986, which was signed into law on October 27, 1986 (P.L. 99-570).

S. 2561: Amendment to Controlled Substance Act to Enhance Penalties for Employment of Minors. (By Senator Chiles.) Cosponsors: Senators Nunn, Roth, Kerry, Hecht, Boren, Metzenbaum, Bumpers, and Matsunaga.

This bill was also based in part upon the preliminary investigative work performed by the Minority staff in preparation for the Subcommittee hearing on crack cocaine. The investigation showed that crack dealers commonly employed children as lookouts or distributors in order to avoid apprehension and conviction for their drug dealings. In response to this growing problem, this bill created a new Federal offense for the employment of minors in the manufacture or distribution of illegal drugs.

Originally introduced on June 17, 1986, the measure was later offered as a specific provision of S. 2715 which eventually became part of the Anti-Drug Abuse Act of 1986 which was signed into law on October 27, 1986 (P.L. 99–570).

S. 2562: Amendment to Controlled Substance Act Relating to Distribution of Drugs In or Near a School. (By Senator Chiles.) Cosponsors: Senators Nunn, Roth, Kerry, Hecht, Boren, Metzenbaum, Bumpers, Matsunaga and Nickles.

In preparation for the July, 1986 crack cocaine hearing, the Minority staff uncovered numerous incidents of the sale or manufacture of this highly addictive drug near local elementary or high schools. This practice as well as the attractiveness of the drug to children were also highlighted at the hearing.

In response to this very serious threat to our Nation's youth, this bill was introduced on June 17, 1986, to provide criminal penalties for the manufacture of drugs within the vicinity of a school. The measure was later reintroduced as a specific provision of S. 2715, the Emergency Crack Control Act of 1986, which eventually became part of the Anti-Drug Abuse Act of 1986 which was signed into law on October 27, 1986 (P.L. 99–570).

S. Res. 464: Proclaims October 1986 as "Crack/Cocaine Month." (By Senator Roth.) Cosponsors: Senators Nunn, Hawkins, Trible, Burdick, Zorinsky, DeConcini, Stennis, Gorton, Specter, Heinz, Chiles, Stevens, Durenberger, Murkowski, McClure, Laxalt, Hollings, Packwood, Lautenberg, Denton, Bumpers, Pryor, Riegle, Pell, Chafee, and Metzenbaum.

This resolution proclaimed October 1986 as "Crack/Cocaine Month" to encourage educators, media and civic leaders to concentrate their efforts and dedicate their resources to informing the public about the health hazards of cocaine and "crack," the highly addictive smokable form of cocaine. As worded, S. Res. 464 is identical to H.J. Res. 678 which was passed by the Senate on October 3, 1986 and enacted into law on October 16, 1986 (P.L. 99–481).

H.R. 5484: Anti-Drug Abuse Act of 1986.

Echoing recommendations made during PSI hearings on the role of the entertainment industry in the deglamourization of drugs, the Congress included in the Anti-Drug Abuse Act of 1986 provisions requesting that the industry refrain from producing pro-drug material and to develop programs discouraging drug use. The Congress further recommended that the Motion Picture Association of America incorporate a new rating in its voluntary movie rating system to identify films which depict substance abuse.

Based in part on information generated from PSI investigations on money laundering practices, the Senate included money laundering provisions in the comprehensive drug legislation package. Very similar money laundering provisions were incorporated as the

"Money Laundering Control Act of 1986" in H.R. 5484, the Anti-Drug Abuse Act of 1986, which was signed into law on October 27, 1986 (P.L. 99-570).

S. 2817: The Drug Paraphernalia Control Act of 1986. (By Senator Roth.)

Open sales of drug paraphernalia promote, even glamourize, illicit drug use. Introduced on September 8, 1986, this bill controls the availability of drug paraphernalia by making it a criminal act to use the mails to sell drug paraphernalia, sell or transport these items interstate, advertise, and import or export these items. Also, it provides for the seizure and forfeiture of the contraband. A slightly revised version of this bill was incorporated into the Anti-Drug Abuse Act of 1986, which was signed into law on October 27, 1986 (P.L. 99-570).

S. 2818: Amendment to the Immigration and Nationality Act. (By Senator Roth.)

This bill was introduced on September 8, 1986, to amend the Immigration and Nationality Act to provide for the exclusion or deportation from the United States of aliens who possessed or used certain controlled substances. This legislation was subsequently referred to the Senate Committee on the Judiciary, where no action was taken in the 99th Congress.

S. 2831: Harmful Inhalants. (By Senator Roth.)

Sometimes referred to as "gateway drugs," toxic substances are frequently inhaled, particularly by young people, for the purpose of becoming intoxicated. To amend Title 18, U.S.C. to outlaw the sale and advertisement of harmful inhalants, Senator Roth introduced this bill on September 15, 1986. This legislation was subsequently referrred to the Senate Committee on the Judiciary, where no action was taken in the 99th Congress. However, a requirement for a study of inhalants was included in the Anti-Drug Abuse Act of 1986.

S. 2638: Drug Enforcement Amendment to the Department of Defense Authorization Act for Fiscal Year 1987. (By Senator Nunn.)

Based upon the Subcommittee's longstanding interest in drug enforcement issues as well as the most recent hearing on the problems of crack cocaine, Senator Nunn proposed an amendment to S. 2638 to better coordinate the Federal anti-drug effort.

The amendment requires for the first time that the President must develop a comprehensive federal strategy to combat drugs. Included in this plan is the designation by the President of lead agencies with primary responsibility for marine and air interdiction, border interdiction, and domestic and foreign law enforcement efforts. The bill provides these lead agencies with the authority to coordinate the activities of other agencies in the area of their responsibility.

As worded, the amendment also requires that the President submit a plan to Congress that would greater utilize the interdiction expertise of the Coast Guard as well as the vast resources of the Defense Department. It also amends the Posse Comitatus law to mandate Defense Department assistance to law enforcement's anti-drug efforts as long as their readiness is not affected. Under prior law, this cooperation was couched in hortatory rather than mandatory language.

The Authorization Act, as amended in conference, passed both Houses on October 15, 1986. The Act was signed into law on November 14, 1986 (P.L. 99–61).

S. 2191: A bill to amend the Federal Aviation Act of 1958 so as to prohibit reprisals against officers, employees, or contractors of air carriers. (By Senator Roth.) Cosponsors: Senators Cohen, Chiles, Levin and Simon.

During the Subcommittee's hearing on airline safety on March 6, 1986, pilot witnesses testified that airline employees, who are in a unique position to observe inadequate safety practices by their air carriers, are often reluctant to report actual or potential safety violations to responsible authorities. One reason for this reluctance is the fear of retaliation by their employers. This legislation would amend the Federal Aviation Act of 1958 to provide protection against adverse employment actions for whistleblowers who report safety-related violations to the Federal Aviation Administration, the National Transportation Safety Board or the U.S. Congress. The amendment would also create a private right of action for employees who are fired or harassed by their air carriers for reporting such violations.

This legislation was introduced on March 13, 1986, and referred to the Senate Committee on Commerce, Science and Transportation, but no further action was taken during the 99th Congress.

IV. Reports, Prints, and Studies

General Accounting Office Report to the Permanent Subcommittee on Investigations: The Department of Labor's Oversight of the Management of the Teamsters Central States Pension and Health and Welfare Funds (July 1985)

Crime and Secrecy: The Use of Offshore Banks and Companies (Senate Report 99–130, August 1985)

Federal Government's Security Clearance Programs (Senate Report 99–230, January 1986)

General Accounting Office Report to the Permanent Subcommittee on Investigations: Bank Secrecy Act—Treasury Can Improve Implementation of the Act (June 1986)

General Accounting Office Report to the Permanent Subcommittee on Investigations: Bank Secrecy Act—Financial Institution Regulators' Compliance Examinations (August 1986)

Child Pornography and Pedophilia (Senate Report 99–537, October 1986).

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